

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Report Required)
by R.C. 4933.123 Regarding Service) Case No. 21-548-GE-UNC
Disconnections for Nonpayment.)

**MOTIONS TO INTERVENE
BY
ADVOCATES FOR BASIC LEGAL EQUALITY, INC.
LEGAL AID SOCIETY OF SOUTHWEST OHIO, LLC
OFFICE OF THE OHIO CONSUMERS' COUNSEL
OHIO POVERTY LAW CENTER
PRO SENIORS, INC.**

Each of the above-named Consumer Parties respectively moves to intervene in their own right. The motions are jointly made solely for administrative efficiency.

Annually, the PUCO collects service disconnection data from all electric and natural gas utilities. The most recent service disconnection reporting was for the period June 1, 2020 through May 31, 2021. This period is important for consumer protection because it falls during the pandemic that has caused serious health and financial crises in Ohio and throughout the world. In particular, the AEP Ohio report shows an alarming number of service disconnections during this reporting period. AEP Ohio's disconnection numbers warrant a PUCO investigation into AEP's disconnection policies and practices. The investigation should also be about the use of smart meters with remote disconnection capabilities as potentially contributing to this alarming level of service disconnections.

Advocates for Basic Legal Equality, Inc., Legal Aid Society of Southwest Ohio, LLC, the Office of the Ohio Consumers' Counsel, Ohio Poverty Law Center, and Pro

Seniors, Inc. (the “Consumer Parties”) move to respectively and individually intervene¹ where Ohio utilities report to the Public Utilities Commission of Ohio (“PUCO”) the number of consumers that they disconnect.² Consumer Parties are filing on behalf of their respective interests in representing residential utility consumers (many of whom are at-risk) in this state. The reasons the PUCO should grant the Consumer Parties’ Motions are further set forth in the attached Memorandum in Support.

Respectfully submitted,

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¹ See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11. While this motion is joint, each of the Consumer Parties is seeking intervention respectively and individually and may take positions that are independent of any other Consumer Party.

² Case No. 21-16-EL-RDR, Entry (March 24, 2021).

/s/ Ellis Jacobs

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MEMORANDUM IN SUPPORT

This case involves Ohio utilities reporting to the PUCO the number of consumers they disconnect from their essential utility service. On March 9, 2020, Governor DeWine declared a state of emergency to protect the health and safety of Ohioans from the dangerous effects of the coronavirus pandemic.³ Subsequently, the PUCO opened a docket. It directed all utilities to “review their service disconnection policies, practices, and tariff provisions and to promptly seek any necessary approval to suspend otherwise applicable requirements that may impose a service continuity hardship on residential and non-residential customers or create unnecessary COVID-19 risks associated with social contact.”⁴

Nonetheless, on June 11, 2021, AEP Ohio reported an alarming number of consumer electric service disconnections (124,157 or 64% of the total electric utility disconnections of 195,186) right when Ohioans were struggling to emerge from the coronavirus emergency. In this case involving utilities’ reporting the number of consumers disconnected from their essential utility service, energy justice should be at

³ Executive Order, 2020-01(D).

⁴ *In the Matter of the Proper Procedures and Process for the Commission’s Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC, Entry (March 12, 2020), at ¶1.

the top of the PUCO's mind. Maintaining essential utility service, particularly for at-risk populations, can be a matter of life and death.

Advocates for Basic Legal Equality, Inc. ("ABLE") is a non-profit legal service provider that provides high quality legal services in civil matters to low-income individuals. The Legal Aid Society of Southwest Ohio, LLC is a nonprofit legal services organization providing free, comprehensive, civil legal assistance to address a wide range of major social and legal obstacles for families and individuals in the Southwest Ohio region. The Office of the Ohio Consumers' Counsel ("OCC") is the statutory representative of millions of Ohio residential utility consumers. The Ohio Poverty Law Center ("OPLC") works to reduce poverty and increase justice by protecting the legal rights of Ohioans living in poverty. Pro Seniors, Inc. is a non-profit legal service provider located in Cincinnati that works to expand economic opportunities and improve the quality of life for senior residents of Ohio.

R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of the Consumer Parties' constituents may be "adversely affected," especially if they are unrepresented in a proceeding involving utilities' disconnections of consumers' essential electric and gas utility services. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;

- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings;
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

First, the nature and extent of the Consumer Parties' respective interests are representing their constituents' (many of whom are at-risk) in this case involving utilities' disconnections. These respective interests are different from that of any other party and especially different from that of the utilities, whose advocacy includes the financial interest of stockholders.

Second, the Consumer Parties' advocacy for their respective constituents will include, among other things, advancing the position that service must be adequate under Ohio law and that all disconnection policies must be followed and potentially improved. The Consumer Parties' respective positions are therefore directly related to this case, which is pending before the PUCO, the authority with regulatory control of public utilities' service quality in Ohio.

Third, the Consumer Parties' respective interventions will not unduly prolong or delay the proceedings. The Consumer Parties, with their longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, the Consumer Parties' respective interventions will significantly contribute to full development and equitable resolution of the factual issues. They will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

The Consumer Parties also satisfy the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that they satisfy in the Ohio Revised Code). To intervene, a party should have a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2). As advocates for residential utility consumers and at-risk populations, the Consumer Parties each have a very real and substantial interest in this case involving utility disconnections.

In addition, the Consumer Parties meet the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B), which the Consumer Parties have already addressed, and which they satisfy.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider “The extent to which the person’s interest is represented by existing parties.” While the Consumer Parties do not concede the lawfulness of this criterion, they satisfy this criterion in that they are each uniquely positioned as representing residential utility consumers and at-risk populations. Such respective interests are different from, and not represented by, any other parties.

Moreover, the Supreme Court of Ohio (“Court”) confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.⁵

The Consumer Parties meet the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for

⁵ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

intervention. On behalf of their respective consumer constituents, many of whom are at risk, the PUCO should grant the Consumer Parties' Motions to Intervene.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 30th day of July 2021.

/s/ William J. Michael
William J. Michael
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Motion Motions to Intervene by Advocates for Basic Legal Equality, Inc., Legal Aid Society of Southwest Ohio, LLC, Office of the Ohio Consumers' Counsel, Ohio Poverty Law Center and Pro Seniors, Inc electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.